

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TRUSTEES OF THE PAINTERS
UNION DEPOSIT FUND, a
voluntary unincorporated trust,

Case No. 08-15197

Plaintiff,

Honorable Sean F. Cox
UNITED STATES DISTRICT JUDGE

v.

MURDOCK, INCORPORATED, a
dissolved Michigan corporation, and
TRACY MURDOCK, Individually,
Jointly and Severally,

Defendants.

OPINION & ORDER

GRANTING MOTION FOR DEFAULT JUDGMENT

This action is currently before the Court on the Plaintiff's Motion for Default Judgment [Doc. No. 12]. For the reasons set forth below, the motion shall be **GRANTED**.

On December 17, 2008, Plaintiff filed this action, pursuant to Section 101 of the Labor-Management Relations Act ("LMRA"), 29 U.S.C. § 186, and the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. §§ 1132 and 1145. Plaintiff seeks payment of unpaid audited indebtedness of \$11,558.98 due under the fringe benefit provisions of the collective bargaining agreement ("CBA") between Plaintiff and Defendants. The \$11,558.98 alleged as unpaid audited indebtedness consists of \$9,632.48 in delinquent fringe contributions owed to Plaintiff for the period of January 1, 2007 to December 31, 2008, and \$1,926.50 representing liquidated damages in the amount of 20% as provided for in Article XVIII, Section 3 of the

CBA.

Plaintiff also requests interest on any amount determined owing by an audit at 12% per annum from the due date of the contributions, liquidated damages, the costs of the audit, and statutory attorney fees pursuant to 29 U.S.C. § 1132(g)(2). Jurisdiction is proper under 28 U.S.C. § 1331, because the case concerns rights granted under federal statutes. Defendant received service of process on June 21, 2008, and failed to file an answer within the required 20 day period.

A Clerk's entry of Default was entered on January, 2009. The Court notes that Defendant Murdock Incorporated, as a former corporation is incapable of being in violation of the requirements for Non-Majority, Non-Incompetence, and Non-Military Status, and that, to the best of Plaintiff's knowledge, individual Defendant Tracy Murdock is of majority age, not incompetent, and not currently on military status. No responsive pleadings, nor objection to this motion for default judgment, have been filed by Defendants to date.

This Court held a hearing on the Plaintiff's motion on May 28, 2009. Although the Plaintiff appeared for the hearing, no persons on behalf of the Defendants, or opposing the Plaintiff's motion, appeared at the hearing. In addition, no written opposition to the Plaintiff's motion has been filed by any party.

Having reviewed the Motion, the Court is satisfied that the Plaintiff is entitled to entry of a default judgment in this matter. IT IS THEREFORE ORDERED that the Plaintiff's Motion for Entry of Default Judgment [Doc. No. 12] be GRANTED.

IT IS SO ORDERED.

S/Sean F. Cox
Sean F. Cox
United States District Judge

Dated: May 28, 2009

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PROOF OF SERVICE

I hereby certify that a copy of the foregoing document was served upon counsel of record
on June 2, 2009, by electronic and/or ordinary mail.

S/Jennifer Hernandez

Case Manager